

BEFORE THE  
TENNESSEE STATE BOARD OF EQUALIZATION

*In Re:* Acorn Hills LP )  
District 3, Map 56M, Group A Control Map 56M, )  
Parcel 28 ) Marshall County  
Tax years 2005, 2006, 2007 )

PROPOSED DECISION AND ORDER

### Statement of the Case

The Marshall County Board of Equalization has valued the subject property for tax purposes as follows:

### Tax Years 2005 and 2006:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$220,000	\$2,640,000	\$2,860,000	\$1,144,000

**Tax Year 2007:**

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$220,000	\$2,157,600	\$2,377,600	\$951,040

Appeals have been filed on behalf of the property owner with the State Board of Equalization ("State Board").<sup>1</sup>

The undersigned administrative judge conducted a hearing of this matter on July 19, 2007 in Nashville.<sup>2</sup> The appellant, Acorn Hills L.P., was represented by registered agent Jay Catignani, of Property Tax Consultants (Nashville). Marshall County Assessor of Property Linda Haislip was assisted by Robert T. Lee, attorney for the State Division of Property Assessments (DPA), and George C. Hoch, TMA, a member of DPA's staff.

Proposed Decision

With relatively minor variations owing to a change in representation, these appeals amount to a reprise of the dispute addressed in Acorn Hills LP/Brisben (Marshall County, Tax Years 2003 and 2004, Initial Decision and Order, October 29, 2007). For the sake of brevity, under authority of Tenn. Code Ann. section 67-5-1505(d), the administrative judge will dispense

<sup>1</sup>The NOTICE OF HEARING entered by the administrative judge June 13, 2007 referred only to the appeals relative to tax years 2005 and 2006. The appeal for tax year 2007 was received by the State Board on July 9, 2007. That same day, pursuant to State Board Rule 0600-1-.10, the Marshall County Assessor of Property (through the State Division of Property Assessments) filed a “counterclaim” with respect to the valuation of the subject property for tax year 2007. By mutual consent of the parties, all three tax years are addressed in this proposed order.

<sup>2</sup>The parties filed their post-hearing memoranda on or before the August 1, 2007 due date.



with formal findings of fact and conclusions of law in this hard-fought sequel. Based on the evidence of record, it is respectfully recommended that the subject property be valued in accordance with the following modifications to DPA's Discounted Cash Flow (DCF) Spreadsheets:

**Tax Year 2005** (Assessor/DPA Hearing Exhibit, pp. 104-105):

Potential gross (restricted) rental income escalation: 1.50% per year (beginning with year 2)  
Vacancy and collection loss: 5% of potential gross income (beginning in year 1)  
Expense escalation: 3% per year (beginning with year 2)  
Discount rates: 10.40% for NOI excluding tax credits; 8.00% for tax credits  
Years of tax credits remaining: 3  
Terminal capitalization rate: 8.90%  
Reversionary value: based on capitalization of rent-restricted NOI at end of holding period (less selling expenses)

**Tax Year 2006** (Assessor/DPA Hearing Exhibit, pp. 108-109):

Potential gross (restricted) rental income escalation: 1.50% per year (beginning with year 2)  
Vacancy and collection loss: 5% of potential gross income (beginning in year 1)  
Expense escalation: 3% per year (beginning with year 2)  
Discount rates: 10.10% for NOI excluding tax credits; 8.00% for tax credits  
Years of tax credits remaining: 2  
Terminal capitalization rate: 8.60%  
Reversionary value: based on capitalization of rent-restricted NOI at end of holding period (less selling expenses)

**Tax Year 2007** (Assessor/DPA Hearing Exhibit, pp. 112-113):

Potential gross (restricted) rental income escalation: 1.50% per year (beginning with year 2)  
Vacancy and collection loss: 5% of potential gross income (beginning in year 1)  
Expense escalation: 3% per year (beginning with year 2)  
Discount rates: 8.50% for NOI excluding tax credits; 7.00% for tax credits  
Years of tax credits remaining: 1 (\$184,964)  
Terminal capitalization rate: 7.90%  
Reversionary value: based on capitalization of rent-restricted NOI at end of holding period (less selling expenses)

Order

Within ten (10) days from the date of entry hereof, the Assessor and/or DPA shall submit for the record revised DCF spreadsheets reflecting adjusted values for the subject property consistent with the above findings. It is further ORDERED that the following values be adopted for the tax years under appeal:

**Tax Year 2005:** Assessor/DPA adjusted DCF value, equalized by application of the overall appraisal ratio certified by the State Board for Marshall County (.9625), less \$7,968 (appraised value of tangible personal property).



**Tax Year 2006:** Assessor/DPA adjusted DCF value, equalized by application of the overall appraisal ratio certified by the State Board for Marshall County (.9078), less \$7,968 (appraised value of tangible personal property).

**Tax Year 2007:** Assessor/DPA adjusted DCF value less \$6,920 (appraised value of tangible personal property).

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 29<sup>th</sup> day of October, 2007.



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PETE LOESCH  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

cc: John O. Catignani, Property Tax Consultants  
Robert T. Lee, General Counsel, Comptroller of the Treasury  
Linda Haislip, Marshall County Assessor of Property